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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,770	08/04/2003	Jeremy J. Gauthier	45781.78960-001	5112
7590	02/24/2005		EXAMINER	
Warner Norcross & Judd LLP 900 Fifth Third Center 111 Lyon Street, N.W. Grand Rapids, MI 49503-2487			BURNHAM, SARAH C	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,770	GAUTHIER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sarah C. Burnham	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 January 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,8-23 and 28-35 is/are pending in the application.

4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.

5) Claim(s) 1,8-16,23,28 and 29 is/are allowed.

6) Claim(s) 30-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 January 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both a hole in the bracket and a torsion spring. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 30-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatta (4,576,413). With respect to 30, Hatta discloses an articulating vehicle head restraint comprising: a bracket (2), an armature (4) contained within the bracket (2), the armature

having a first end (unlabeled) located opposite the end contained within the bracket (2); a cam (5) having a lock accumulation (51b)(51c), the cam fixedly (5) attached to the armature (4); a moveable locking element (7) for engagement with the loc accumulation (51b)(51c) to prevent rotation of the armature (4), a torsion spring (8) circumferentially disposed about the armature (4); a rod (a1) for attaching a bun (a), the rod (a1) attached to the armature by way of bracket (3); and a second spring (74) attached to the bracket (2), as best seen in Figure 3, and to the moveable locking element (7) by way of pin (73), wherein "the tensile force of spring (74) biases the engagement portion (72) of the stopper (7) into engagement with the locking groove (51) in the lock plate (5)" (column 3, lines 18-21).

With respect to claim 31, the cam (5) is proximal to the rod (1a) and the rod is located proximal the torsion spring (8).

With respect to claim 32, the armature (4) has a first end (unlabeled) located opposite the end contained within the bracket (2) and the cam (5) is located between the first end (unlabeled) and the torsion spring (8).

With respect to claim 33, the rod (1a) is located between the first end (unlabeled) and the torsion spring (8).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatta (4,576,413) in view of Azar et al. (6,485,096). Hatta reveals all claimed elements with the exception of a cable attached the moveable locking element configured so that when a force is applied to the cable the moveable locking element tends to move into the unlocked position.

Azar teaches the use of a cable (100) coupled between the seat cushion and the guide plate mechanism (90) for automatically sliding the adjustment mechanism between a first position pivoting the head restraint to a normal position and a second position pivoting the head restraint to a forward angles=d position.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use a cable to move slide (7) versus a force applied to the head restraint bun. Such a modification would allow the seat occupant to position the headrest with a push of a button versus placing strain on his/her neck to adjust the head restraint.

#### ***Allowable Subject Matter***

6. Claim 1, 8-16, 23, 28 and 29 are allowed.

#### ***Response to Amendment***

7. The amendment filed on December 2, 2004 and the replacement drawing sheets filed on 1/18/05 have been considered in their entirety. Remaining issues are detailed

in the sections above. Claims 17-22 remain withdrawn and must be cancelled prior to allowance of this application. Furthermore, the Examiner believes that the prior art of record, particularly Hatta and Azar, do read on the new claims and the rejection is set forth in detail above.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-

305-7315 (571-272-6854 after April 7, 2005). The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600

SCB  
February 15, 2005